

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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In re:

PROMESA  
Title III

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO,  
et al.,

(Jointly Administered)

Debtors.<sup>1</sup>

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In re:

PROMESA  
Title III

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 4780-LTS

PUERTO RICO ELECTRIC POWER  
AUTHORITY (PREPA),

Debtor.

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SCIEMUS LIMITED, et al.

Adv. Proc. No. 19-369-LTS

Plaintiffs,

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

-v-

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO  
RICO,

as representative of

PUERTO RICO ELECTRIC POWER  
AUTHORITY,

Defendant.

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ORDER DENYING RENEWED MOTION OF PUERTO RICO POWER  
AUTHORITY FOR UNDISPUTED PAYMENT AND RELEASE OF INSURANCE PROCEEDS

The Court has received and reviewed the *Renewed Motion of Puerto Rico Power Authority for Undisputed Payment and Release of Insurance Proceeds* (Docket Entry No. 9653 in Case No. 17-3283, the “Motion”<sup>2</sup>) filed by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), the *Certificate of No Objection Regarding Renewed Motion of Puerto Rico Power Authority for Undisputed Payment and Release of Insurance Proceeds* (Docket Entry No. 10171 in Case No. 17-3283, the “CNO”<sup>3</sup>) filed by the Oversight Board, the *Notice of Presentment by Puerto Rico Electric Power Authority of Revised Proposed Order for Undisputed Payment and Release of Insurance Proceeds* (Docket Entry No. 10383 in Case No. 17-3283, the “Notice of Presentment”<sup>4</sup>) filed by the Oversight Board, *Plaintiffs’ Objection to Notice of Presentment by Puerto Rico Electric Power Authority of Revised Proposed Order for Undisputed Payment and Release of Insurance Proceeds* (Docket Entry No. 1887 in Case No. 17-4780, the “Objection”<sup>5</sup>) filed by the plaintiffs in Adv. Proc. No. 19-369 (the “Insurers”), and the *Informative Motion Regarding Insurers’ Objection to Notice of Presentment by Puerto Rico Electric Power Authority of Revised Proposed Order for Undisputed Payment and Release of Insurance Proceeds* (Docket Entry No. 10621 in Case No. 17-3283, the

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<sup>2</sup> The Motion was also filed at Docket Entry No. 1843 in Case No. 17-4780 and Docket Entry No. 32 in Adv. Proc. No. 19-369. It is substantially duplicative of a prior motion and revised proposed order filed by the Oversight Board. (See Docket Entry Nos. 24 and 28 in Adv. Proc. No. 19-369.)

<sup>3</sup> The CNO was also filed at Docket Entry No. 1867 in Case No 17-4780 and Docket Entry No. 38 in Adv. Proc. No. 19-369.

<sup>4</sup> The Notice of Presentment was also filed at Docket Entry No. 1877 in Case No 17-4780 and Docket Entry No. 41 in Adv. Proc. No. 19-369.

<sup>5</sup> The Objection was also filed at Docket Entry No. 42 in Adv. Proc. No. 19-369.

“Informative Motion”<sup>6</sup>) filed by the Oversight Board. For the reasons stated below, the Motion is denied without prejudice.

The Motion was presented to the Court as a consensual resolution pursuant to which the Insurers would pay certain insurance proceeds to the Puerto Rico Electric Power Authority (“PREPA”) while the parties continue to litigate whether additional amounts are also owed to PREPA. (Mot. ¶¶ 7, 14.) Although the Motion effectively sought to settle a part of a dispute between PREPA and the Insurers, the proposed order filed in connection with the Motion and the revised proposed order submitted by the Insurers in connection with their Objection each sought to limit certain rights of third parties, even if those third parties had not received notice of the Motion. (See *Order Regarding Renewed Motion of Puerto Rico Power Authority for Undisputed Payment and Release of Insurance Proceeds*, Docket Entry No. 10253 in Case No. 17-3283.<sup>7</sup>) No party has made a factual or legal proffer that satisfies the Court that, under the circumstances, it would be consistent with due process and applicable law to approve an order limiting the rights of third parties to the extent requested in the Objection or in the Motion.

Although the Oversight Board has submitted a narrower revised proposed order that would limit third parties’ rights only if they have been served with notice of the Motion (see Exhibit B to the Notice of Presentment at ¶¶ 3-4), the Insurers do not consent to that relief. The initial Motion represented a consensual resolution of issues between the parties to the above-captioned adversary proceeding; with that consent now having been withdrawn, the Motion is denied without prejudice.

This Order resolves Docket Entry Nos. 9653, 10171, and 10383 in Case No. 17-3283, Docket Entry Nos. 1843, 1867, and 1877 in Case No. 17-4780, and Docket Entry Nos. 24, 28, 32, 38, and 41 in Adv. Proc. No. 19-369.

SO ORDERED.

Dated: February 4, 2020

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
United States District Judge

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<sup>6</sup> The Informative Motion was also filed at Docket Entry No. 1895 in Case No. 17-4780 and Docket Entry No. 45 in Adv. Proc. No. 19-369.

<sup>7</sup> The Court’s order was also filed at Docket Entry No. 1868 in Case No. 17-4780 and Docket Entry No. 40 in Adv. Proc. No. 19-369.